

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

ELIZABETH T. RUNKLE,

Plaintiffs,

vs.

ROSAUERS SUPERMARKETS, INC.,  
BOB BURRIS, RAY SPRINKLE, and  
STEVEN H. WINTERBAUER,

Defendants.

CV 17-69-M-DLC-JCL

ORDER

Before the Court are Defendants Rosauers Supermarkets, Inc., Bob Burris, and Ray Sprinkle's Fed. R. Civ. P. 12(b)(6) motions to dismiss Plaintiff Elizabeth Runkle's claims of discrimination under the Montana Human Rights Act ("MHRA") as time-barred.<sup>1</sup> See Mont. Code Ann. §§ 49-2-511(3)(a) and 49-2-512(3).

In response to Defendants' motion, Ms. Runkle, appearing pro se, states that

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<sup>1</sup> Defendants have withdrawn their motions to dismiss as they pertain to Ms. Runkle's claim under the Americans with Disabilities Act, and Runkle has dropped her claims as against Defendant Steven Winterbauer.

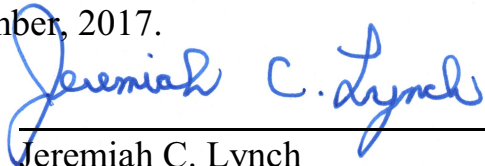
she timely filed claims of discrimination under the MHRA in the Montana Eleventh Judicial District Court, Flathead County, on March 21, 2017, but has not as of yet effected service on the Defendants. And she states her belief that her MHRA claims are properly pursued in the state court action.

Considering Ms. Runkle's pro se status, the Court views her response as notice of voluntary dismissal, without prejudice, of her MHRA claims pursuant to Fed. R. Civ. P. 41(a)(1)(A)(I). Because the Defendants have not filed an answer or motion for summary judgment, Ms. Runkle's right to voluntarily dismiss her MHRA claims is absolute, not requiring assent by the Court or the Defendants. See *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1076 (9<sup>th</sup> Cir. 1999)

Consequently, Ms. Runkle's MHRA claims are considered dismissed without prejudice, and Defendants' motions to dismiss denied as moot.

SO ORDERED

DATED this 11<sup>th</sup> day of December, 2017.

  
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Jeremiah C. Lynch  
United States Magistrate Judge